

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DERRICK RANKINE,)
)
)
Plaintiff,)
)
)
v.) **Civil Action No. 04-100E**
)
)
LOUIS FOLINO, et al.)
)
)
Defendants.)

MOTION FOR SANCTIONS OR APPROPRIATE RELIEF

AND NOW, come the defendants, Folino, Beard, Jackson, Barone, D'Eletto, Scott, Sacks, Hall, Gumbarevic, Meighen, Conner, Tanner, Santogo, Stickles, Stephen, Raunswinder, Manberry, Henry, Jordan, Ivan, Engelhardt, Thompson, Coy, Geehring, Blake, Anderson, Barr and James, who submit the following:

1. This Honorable Court by a case management order it made on December 6, 2006 directed plaintiff to file a pretrial statement in a case set for trial on January 22, 2007.
2. Although an extremely litigious prison inmate who is neither loathe to file papers nor a stranger to court procedures as the docket will show, plaintiff has not done so.
3. As master of his case, he should have to define its parameters for trial as he conceives them before defendants file a pretrial statement. Defendants should not have to file a pretrial statement that is virtually a shot in the dark because the plaintiff will not obey a court order, nor try to explain or justify his default. Instead he has engaged in the proverbial "frolic of his own" in filing an irrelevant and impertinent Request for Entry of Default on December 21, 2006.
4. Defendants' pretrial statement is due on January 5, 2007.
5. Defendants respectfully request that this case be dismissed for plaintiff's failure to file a pretrial statement.

6. In the alternative, defendants respectfully request that they be relieved on an obligation to file a pretrial statement until two weeks following the filing of one by the plaintiff.

7. Defendants in that event would be willing to consent to trial of this case before a magistrate judge if, in this Honorable Court's considered judgment, that is what would be necessary to accommodate such relief due to the fact that its case management order has precluded any further extensions.

WHEREFORE, the defendants respectfully request that the case be dismissed for plaintiff's prejudicial failure to comply with a court order.

Respectfully submitted,

**THOMAS W. CORBETT, JR.
Attorney General**

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Pittsburgh, PA 15219

Date: January 3, 2007

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 3, 2007 a true and correct copy of the foregoing Motion for Sanctions or Appropriate Relief was electronically filed with the Clerk of Court using the CM/ECF system, and the document was mailed by United States Postal Service to the following non CM/ECF participants:

Derrick Rankine, EU-5850
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/sKemal Alexander Mericli
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Date: January 3, 2007